United Nations A/63/443

General Assembly

Distr.: General
17 November 2008

Original: English

Sixty-third session
Agenda item 79

The rule of law at the national and international levels

Report of the Sixth Committee

Rapporteur: Mr. Marko **Rakovec** (Slovenia)

I. Introduction

1. The item entitled "The rule of law at the national and international levels" was included in the provisional agenda of the sixty-third session of the General Assembly pursuant to Assembly resolution 62/70 of 6 December 2007.

2. At its 2nd plenary meeting, on 19 September 2008, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 6th, 7th, 8th and 26th meetings, on 13 and 14 October and 14 November 2008. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/63/SR.6, 7, 8 and 26).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the rule of law at the national and international levels (A/63/64);

(b) Letter dated 18 April 2008 from the representative of Austria to the Secretary-General (A/63/69-S/2008/270);

(c) Report of the Secretary-General on revised estimates relating to the programme budget for the biennium 2008-2009 related to the Rule of Law Unit (A/63/154);

(d) Report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/63/226);

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(e) Letter dated 30 June 2008 from the representative of Cuba to the Secretary-General (A/63/281-S/2008/431);

(f) Letter dated 20 October 2008 from the representative of Azerbaijan to the Secretary-General (A/63/497-S/2008/668);

(g) Letter dated 23 October 2008 from the representative of the Islamic Republic of Iran to the Secretary-General (A/63/507-S/2008/675);

(h) Letter dated 24 September 2008 from the representative of the Islamic Republic of Iran to the Secretary-General (A/C.6/63/2).

II. Consideration of draft resolution A/C.6/63/L.17

5. At the 26th meeting, on 14 November, the representative of Mexico, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels" (A/C.6/63/L.17). The Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

6. At the same meeting, the Committee adopted draft resolution A/C.6/63/L.17 without a vote (see para. 8).

7. Following the adoption of the draft resolution, the Committee agreed that the understanding reached in connection with operative paragraph 10 of the draft resolution would be issued in a note by the Chairman (A/C.6/63/L.23), reading:

> The Sixth Committee reached the understanding set out below in connection with operative paragraph 10 of the draft resolution entitled "The rule of law at the national and international levels" (A/C.6/63/L.17) which it adopted at its 26th meeting on 14 November 2008.
>
> **Promoting the rule of law at the international level**
>
> Delegates may wish to comment on issues such as strengthening an international system based on the rule of law, the role of the United Nations, including the International Court of Justice, in the peaceful settlement of disputes, promoting respect for the purposes and principles of the Charter of the United Nations, other international dispute resolution mechanisms etc.
>
> **Laws and practices of Member States in implementing international law**
>
> Delegations may wish to comment on issues such as their laws and practices in the domestic implementation and interpretation of international law, strengthening and improving coordination and coherence of technical assistance and capacity-building in this area, mechanisms and criteria for evaluating the effectiveness of such assistance, ways and means of advancing donor coherence, perspectives of recipient States etc.
>
> **Rule of law and transitional justice in conflict and post-conflict situations**
>
> Delegations may wish to comment on issues such as combating impunity and strengthening criminal justice, the role and future of national and international transitional justice and accountability mechanisms, informal justice systems etc.

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 62/70 of 6 December 2007,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming also that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming further the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and of its Member States,

Recalling paragraph 134 (e) of the 2005 World Summit Outcome,[1]

1. *Notes with appreciation* the inventory of current rule of law activities of the United Nations submitted by the Secretary-General[2] and the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;[3]

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[1] See resolution 60/1.

[2] See A/63/64.

[3] A/63/226.

2. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law and its codification, and reaffirms further that States shall abide by all their obligations under international law;

3. *Stresses* the importance of adherence to the rule of law at the national level, and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, based on greater coordination and coherence within the United Nations system and among donors, and calls for greater evaluation of the effectiveness of such activities;

4. *Calls upon* the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;

5. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system within existing mandates, supported by the Rule of Law Unit in the Executive Office of the Secretary-General, under the leadership of the Deputy Secretary-General, and requests the Secretary-General to submit an annual report on United Nations rule of law activities, in particular the work of the Group and the Unit, with special regard to the improvement of the coordination, coherence and effectiveness of rule of law activities, taking note of the elements set out in paragraphs 77 and 78 of the report of the Secretary-General;[3]

6. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;

7. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

8. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to interact with Member States, in particular in informal briefings;

9. *Stresses* the need to consider without delay the report of the Secretary-General on the resource requirements of the Unit,[4] and urges the Secretary-General and Member States to continue to support the functioning of the Unit during the interim phase;

10. *Decides* to include in the provisional agenda of its sixty-fourth session the item entitled "The rule of law at the national and international levels", and invites Member States to focus their comments in future Sixth Committee debates on the sub-topics "Promoting the rule of law at the international level" (sixty-fourth session), "Laws and practices of Member States in implementing international law" (sixty-fifth session), and "Rule of law and transitional justice in conflict and post-conflict situations" (sixty-sixth session),[5] without prejudice to the consideration of the item as a whole.

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[4] See A/63/154.

[5] For further explanations on the sub-topics see A/C.6/63/L.23.